



General Assembly

February Session, 2006

Raised Bill No. 5209

LCO No. 1472

01472_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING YOUTHFUL OFFENDER PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of section 54-76b of the 2006 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage*):

4 (2) "Youthful offender" means a youth who (A) is charged with the
5 commission of a crime which is not (i) a class A felony or a violation of
6 subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-
7 70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving
8 consensual sexual intercourse or sexual contact between the youth and
9 another person who is thirteen years of age or older but under sixteen
10 years of age, or (ii) a violation of section 53a-172 or 53a-173 where the
11 charge for which the defendant is alleged to have failed to appear is (I)
12 one for which the defendant has been determined to be ineligible to be
13 adjudged a youthful offender or has been transferred to the regular
14 criminal docket of the Superior Court, or (II) a violation of probation or
15 conditional discharge under section 53a-32, and (B) has not previously
16 been convicted of a felony in the regular criminal docket of the

17 Superior Court or been previously adjudged a serious juvenile
18 offender or serious juvenile repeat offender, as defined in section 46b-
19 120, as amended.

20 Sec. 2. Section 54-76c of the 2006 supplement to the general statutes
21 is repealed and the following is substituted in lieu thereof (*Effective*
22 *from passage*):

23 (a) In any case where an information or complaint has been laid
24 charging a defendant with the commission of a crime, and where it
25 appears that the defendant is a youth, such defendant shall be
26 presumed to be eligible to be adjudged a youthful offender and the
27 [court having jurisdiction shall, but only as to the public, order the]
28 court file shall be sealed, but only as to the public, unless such
29 defendant (1) is charged with the commission of a crime which is a
30 class A felony or a violation of subdivision (2) of subsection (a) of
31 section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-
32 72b, except a violation involving consensual sexual intercourse or
33 sexual contact between the youth and another person who is thirteen
34 years of age or older but under sixteen years of age, (2) is charged with
35 a violation of section 53a-172 or 53a-173 and the charge for which the
36 defendant is alleged to have failed to appear is (A) one for which the
37 defendant has been determined to be ineligible to be adjudged a
38 youthful offender or has been transferred to the regular criminal
39 docket of the Superior Court, or (B) a violation of probation or
40 conditional discharge under section 53a-32, or [(2)] (3) has been
41 previously convicted of a felony in the regular criminal docket of the
42 Superior Court or been previously adjudged a serious juvenile
43 offender or serious juvenile repeat offender, as defined in section 46b-
44 120, as amended. [Except as provided in subsection (b) of this section,
45 upon] Upon motion of the prosecuting official, the court may order
46 that an investigation be made of such defendant under section 54-76d,
47 as amended by this act, for the purpose of determining whether such
48 defendant is ineligible to be adjudged a youthful offender, provided
49 the court file shall remain sealed, but only as to the public, during such

50 investigation.

51 (b) [(1)] Upon motion of the prosecuting official and order of the
 52 court, the case of any defendant who is a youth and is charged with
 53 the commission of a felony, other than a felony set forth in subsection
 54 (a) of this section, shall be transferred from the youthful offender
 55 docket to the regular criminal docket of the Superior Court, [provided
 56 the court finds that there is probable cause to believe the defendant has
 57 committed the act for which he or she is charged. The defendant shall
 58 be arraigned in the regular criminal docket of the Superior Court by
 59 the next court business day following such transfer, provided] The
 60 court file shall remain sealed until such motion is decided by the court
 61 and any proceedings held prior to the finalization of such transfer shall
 62 be private and shall be conducted in such parts of the courthouse or
 63 the building wherein court is located as shall be separate and apart
 64 from the other parts of the court which are then being held for
 65 proceedings pertaining to adults charged with crimes. [The file of any
 66 case so transferred shall remain sealed until the end of the tenth
 67 working day following such arraignment, unless the prosecuting
 68 official has filed a motion pursuant to subdivision (2) of this
 69 subsection, in which case such file shall remain sealed until the court
 70 makes a decision on the motion.

71 (2) A prosecuting official may, not later than ten working days after
 72 such arraignment, file a motion to transfer the case of any defendant
 73 who is a youth and is charged with the commission of a felony, other
 74 than a felony set forth in subsection (a) of this section, from the regular
 75 criminal docket of the Superior Court to the youthful offender docket
 76 for proceedings in accordance with the provisions of sections 54-76b to
 77 54-76n, inclusive. The court sitting for the regular criminal docket of
 78 the Superior Court shall, after hearing and not later than ten working
 79 days after the filing of such motion, decide such motion.]

80 Sec. 3. Section 54-76d of the 2006 supplement to the general statutes
 81 is repealed and the following is substituted in lieu thereof (*Effective*

82 *from passage):*

83 (a) If the court grants a motion made by the prosecuting official
 84 under subsection (a) of section 54-76c, as amended by this act, that the
 85 defendant be investigated, or if the court on its own motion determines
 86 that the defendant should be investigated under this section, and the
 87 defendant consents to physical and mental examinations, if deemed
 88 necessary, and to investigation and questioning, and to a trial without
 89 a jury, should a trial be had, the information or complaint shall be held
 90 in abeyance and no further action shall be taken in connection with
 91 such information or complaint until such examinations, investigation
 92 and questioning are had of the defendant. [Investigations] Any
 93 investigation under this section shall be made by [an adult probation
 94 officer] the Court Support Services Division. When the information or
 95 complaint charges commission of a felony, [the adult probation officer]
 96 such investigation shall include [in the investigation] a summary of
 97 any unerased juvenile record of adjudications of the defendant.

98 (b) Upon the termination of such examinations, investigation and
 99 questioning, the court, in its discretion based on the severity of the
 100 crime, which shall also take into consideration whether or not the
 101 defendant took advantage of the victim because of the victim's
 102 advanced age or physical incapacity, and the results of the
 103 examinations, investigation and questioning, shall determine whether
 104 such defendant [is eligible or ineligible to] should be adjudged a
 105 youthful offender. If the court determines that the defendant [is
 106 eligible to] should be so adjudged, no further action shall be taken on
 107 the information or complaint and the defendant shall be required to
 108 enter a plea of "guilty" or "not guilty" to the charge of being a youthful
 109 offender. If the court determines that the defendant [is ineligible to]
 110 should not be so adjudged, [it] the court shall order the information or
 111 complaint to be unsealed and the defendant shall be prosecuted as
 112 though the proceedings under sections 54-76b to 54-76n, inclusive, as
 113 amended, had not been had.

114 (c) If no motion is made by the prosecuting official under subsection
115 (a) or (b) of section 54-76c, as amended by this act, or by the court
116 under subsection (a) of this section, and the defendant consents to a
117 trial without a jury, should a trial be had, no further action shall be
118 taken on the information or complaint and the defendant shall be
119 required to enter a plea of "guilty" or "not guilty" to the charge of being
120 a youthful offender.

121 (d) At any time prior to trial as provided in section 54-76e or at any
122 time prior to entering a plea of "guilty" to the charge of being a
123 youthful offender, the defendant, on motion and with the concurrence
124 of the defendant's parent or guardian and the defendant's attorney, if
125 any, may waive further proceedings under the provisions of sections
126 54-76b to 54-76n, inclusive, as amended, and request a trial by jury in
127 the regular criminal docket of the Superior Court. If the court, after
128 making a thorough inquiry, is satisfied that such waiver is knowingly
129 and voluntarily made, the court may grant such motion and order the
130 information or complaint to be unsealed and the defendant shall be
131 prosecuted as though the proceedings under sections 54-76b to 54-76n,
132 inclusive, as amended, had not been had.

133 (e) [At any point, if] If the court determines at any time during the
134 pendency of the case that a defendant is ineligible to be a youthful
135 offender, the court shall order the information or complaint to be
136 unsealed and the defendant shall be prosecuted as though the
137 proceedings under sections 54-76b to 54-76n, inclusive, as amended,
138 had not been had.

139 Sec. 4. Subsection (b) of section 54-76j of the 2006 supplement to the
140 general statutes is repealed and the following is substituted in lieu
141 thereof (*Effective from passage*):

142 (b) If execution of the sentence is suspended under subdivision (6)
143 of subsection (a) of this section, the defendant may be placed on
144 probation or conditional discharge for a period not to exceed three

145 years, provided, at any time during the period of probation, after
146 hearing and for good cause shown, the court may extend [the period as
147 deemed appropriate by the court] such probation or conditional
148 discharge for a period not to exceed five years, including the original
149 period of probation or conditional discharge. If the court places the
150 person adjudicated to be a youthful offender on probation, the court
151 may order that, as a condition of such probation, the person be
152 referred for services to a youth service bureau established pursuant to
153 section 10-19m, provided the court finds, through an assessment by a
154 youth service bureau or its designee, that the person is in need of and
155 likely to benefit from such services. If the court places a person
156 adjudicated as a youthful offender on probation, the court may order
157 that, as a condition of such probation, the person participate in the
158 zero-tolerance drug supervision program established pursuant to
159 section 53a-39d. If the court places a youthful offender on probation,
160 school and class attendance on a regular basis and satisfactory
161 compliance with school policies on student conduct and discipline
162 may be a condition of such probation and, in such a case, failure to so
163 attend or comply shall be a violation of probation. If the court has
164 reason to believe that the person adjudicated to be a youthful offender
165 is or has been an unlawful user of narcotic drugs, as defined in section
166 21a-240, and the court places such youthful offender on probation, the
167 conditions of probation, among other things, [shall] may include a
168 requirement that such person shall submit to periodic tests to
169 determine, by the use of "synthetic opiate antinarcotic in action",
170 nalline test or other detection tests, at a hospital or other facility,
171 equipped to make such tests, whether such person is using narcotic
172 drugs. A failure to report for such tests or a determination that such
173 person is unlawfully using narcotic drugs [shall] may constitute a
174 violation of probation. If the court places a person adjudicated as a
175 youthful offender for a violation of section 53-247 on probation, the
176 court may order that, as a condition of such probation, the person
177 undergo psychiatric or psychological counseling or participate in an
178 animal cruelty prevention and education program, provided such a

179 program exists and is available to the person.

180 Sec. 5. Section 54-76l of the 2006 supplement to the general statutes
181 is repealed and the following is substituted in lieu thereof (*Effective*
182 *from passage*):

183 (a) The records or other information of a [youth, other than a youth
184 arrested for or charged with the commission of a crime which is a class
185 A felony or a violation of subdivision (2) of subsection (a) of section 53-
186 21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b,
187 except a violation involving consensual sexual intercourse or sexual
188 contact between the youth and another person who is thirteen years of
189 age or older but under sixteen years of age] youthful offender,
190 including fingerprints, photographs and physical descriptions, shall be
191 confidential and shall not be open to public inspection or be disclosed
192 except as provided in this section, but such fingerprints, photographs
193 and physical descriptions submitted to the State Police Bureau of
194 Identification of the Division of State Police within the Department of
195 Public Safety at the time of the arrest of a person subsequently
196 adjudged, or subsequently presumed or determined to be eligible to be
197 adjudged, a youthful offender shall be retained as confidential matter
198 in the files of the bureau and be opened to inspection only as provided
199 in this section. Other data ordinarily received by the bureau, with
200 regard to persons arrested for a crime, shall be forwarded to the
201 bureau to be filed, in addition to such fingerprints, photographs and
202 physical descriptions, and be retained in the division as confidential
203 information, open to inspection only as provided in this section.

204 (b) The records of any [such youth] youthful offender, or any part
205 thereof, may be disclosed to and between individuals and agencies,
206 and employees of such agencies, providing services directly to the
207 youth, including municipal, state and federal law enforcement
208 officials, state and federal prosecutorial officials, school officials in
209 accordance with section 10-233h, court officials, the Division of
210 Criminal Justice, the Court Support Services Division, the Board of

211 Pardons and Paroles and an advocate appointed pursuant to section
212 54-221 for a victim of a crime committed by the [youth] youthful
213 offender. Such records shall also be available to the attorney
214 representing the [youth] youthful offender, in any proceedings in
215 which such records are relevant, to the parents or guardian of such
216 [youth] youthful offender, until such time as the [youth] youthful
217 offender reaches the age of majority or is emancipated, and to the
218 [youth] youthful offender upon his or her emancipation or attainment
219 of the age of majority, provided proof of the identity of such [youth]
220 youthful offender is submitted in accordance with guidelines
221 prescribed by the Chief Court Administrator. Such records disclosed
222 pursuant to this subsection shall not be further disclosed.

223 (c) The records of any [such youth] youthful offender, or any part
224 thereof, may be disclosed upon order of the court to any person who
225 has a legitimate interest in the information and is identified in such
226 order. Records or information disclosed pursuant to this subsection
227 shall not be further disclosed.

228 (d) The records of any [such youth] youthful offender or any part
229 thereof, shall be available to the victim of the crime committed by such
230 [youth] youthful offender to the same extent as the record of the case
231 of a defendant in a criminal proceeding in the regular criminal docket
232 of the Superior Court is available to a victim of the crime committed by
233 such defendant. The court shall designate an official from whom such
234 victim may request such information. Information disclosed pursuant
235 to this subsection shall not be further disclosed.

236 (e) Any reports and files held by the Court Support Services
237 Division regarding any [such youth] youthful offender who served a
238 period of probation may be accessed and disclosed by employees of
239 the division for the purpose of performing the duties contained in
240 section 54-63b.

241 (f) Information concerning any [such youth] youthful offender who

242 has escaped from an institution to which such [youth] youthful
 243 offender has been committed or for whom an arrest warrant has been
 244 issued may be disclosed by law enforcement officials.

245 (g) The information contained in and concerning the issuance of any
 246 protective order issued in a case [in which a person is presumed or
 247 determined to be eligible to be adjudged] involving a youthful
 248 offender shall be entered in the registry of protective orders pursuant
 249 to section 51-5c, as amended, and may be further disclosed as specified
 250 in said section.

251 (h) The provisions of this section, as amended by public act 05-232
 252 and this act, apply to offenses committed after January 1, 2006, and do
 253 not affect any cases pending on said date or any investigations
 254 involving offenses committed prior to said date.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	54-76b(2)
Sec. 2	<i>from passage</i>	54-76c
Sec. 3	<i>from passage</i>	54-76d
Sec. 4	<i>from passage</i>	54-76j(b)
Sec. 5	<i>from passage</i>	54-76l

Statement of Purpose:

To revise court procedures and make technical changes to provisions concerning youthful offenders.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]